



## FLORENCE CITY COUNCIL

### MINUTES – REGULAR MEETING

**TUESDAY, MAY 8, 2007**

The City Council of the City of Florence, Kentucky met in Regular Session on Tuesday, May 8, 2007 at 7:00 p.m. in the Florence Government Center with Mayor Diane E. Whalen presiding in the Chair.

#### CALL TO ORDER, WELCOME, & ROLL CALL:

Mayor Whalen called the regular meeting to order and declared the Regular Session to be open for the presentation of all City business.

The roll was called and the following six (6) members of Council registered present: Mel Carroll, Dale Stephens, David A. Osborne, Vice Mayor Dr. Julie Metzger Aubuchon, Betsy Conrad, and Ted Bushelman.

Also present were Mayor Diane E. Whalen, City Coordinator Patricia J. Wingo, City Attorney Hugh O. Skees, Assistant City Coordinator/Community Development Director Rick Lunnemann, Fire/EMS Chief Marc Muench, Information Technology Director Colin Campbell, Police Chief Tom Szurlinski, Public Services Director Bob Townsend, Administrative Assistant Donna Smith, Public Services Senior Maintenance Worker Tom Lape, Kevin Bowman (CESO Engineer), Kitty Cassis (Real Estate Representative), Kate Conlin (Paul Hemmer Companies), David Gose (Wal-Mart Market Manager/Northern Kentucky Market), Mike Hargis (Paul Hemmer Companies), John Turner (Wal-Mart Manager), Jason Wetzel (Wal-Mart Senior Manager/Public Affairs), Lynn Caldwell (1800 Mimosa Trail), Pam & Brian Carroll (8312 Tamarack Drive), Michael Crowe (13 East Cobblestone Court), Steve Dallas (72 Achates Drive), Terry & Tracey Dwelly (8383 U.S. 42), Doris Freeman (3328 Beech Lane), Jason Gibbons (1513 Coppercreek Court), Tom Hellings (33 Vivian Drive), Steve Hils (1067 Tudor Lane), Yvonne Joy (345 Saddlebrook Lane), Keerthi & Sahar Kanubaddi (9172 Belvedere Court), Genie & Al Lammeier (1790 Mimosa Trail), Billie Leicht (8556 Evergreen Drive), Tammy Lipscomb (8594 Winthrop Circle), Richard Marsan (9043 Crimson Oak Drive), Bev Reno (9108 Timberbrook Lane), Sandy Robb (9601 Gunpowder Road), Sandy Schroeder (24 Kelly Drive), Susie Stough (761 Mary Lou Drive), Pam & Steve Strieter (9213 Tranquility Drive), James Suttles (8532 Quinn Drive), Richard Wentz (8527 U.S. 42), Larry Braden (44 Kathryn Avenue), Linda Holbrook (44 Kathryn Avenue), J. Kelly Huff (1160 Tamarack Circle), Tom Wingo (8638 Valley View Drive), Videographer Jerry Schrepfer, Kentucky Enquirer Reporter Brenna Kelly, Florence Recorder Reporter Adam Rosing, and City Clerk Joe Christofield.

#### MINUTES:

Mayor Whalen called for a motion to approve the minutes of the April 10, 2007 regular meeting of Council. Councilmember Bushelman so moved, with second from Vice Mayor Metzger Aubuchon. **Council approved by unanimous vote.**

Mayor Whalen called for a motion to approve the minutes of the April 24, 2007 regular meeting of Council. Councilmember Stephens so moved, with second from Vice Mayor Metzger Aubuchon. **Council approved by unanimous vote.**

#### PROCLAMATION:

Mayor Whalen read a proclamation declaring May 20, 2007 as National Public Services Week in the City of Florence.

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**PRESENTATION:**

Mayor Whalen recognized Public Services Senior Maintenance Worker Tom Lape, who gave a brief presentation regarding the Public Services Night Out on Tuesday, May 22 from 4-7 p.m. at the Home Depot on Spiral Boulevard. Additional discussion followed.

**FIRST READINGS:**

Mayor Whalen read a statement regarding the proposed annexation/project:

“We’re scheduled to discuss this proposed annexation of property that is owned by two separate owners. We believe that the biggest issue that has to be determined at this point in time is that if this land is annexed into the City limits, we as a City government will then have the right to have input into how this land is used and developed. The property owners obviously have a legal right to submit for annexation. They have a legal right to request a zone change of the Boone County Planning & Zoning Commission. They can do that whether or not we agree to annex this property. If we as a City government want to have our voices and concerns addressed regarding this proposal, it is in the best interest of the City to proceed with the first reading of this annexation. Once the zone change request has been submitted to the Boone County Planning Commission, then the meetings will be scheduled by that group regarding the requested rezoning of the property from its current use, which is industrial, to commercial. The Boone County Planning & Zoning Commission will also hold a public hearing. It is at that public hearing that they receive all the input and comments from the citizens, whether you’re able to be there in person or not, whether you send writing, written notice to them...everything that’s said, everything they receive becomes part of the permanent record of that zone change committee. There are many requirements that must be satisfactorily presented by the developer to the Boone County Planning & Zoning Commission, including the plans for roadway improvements. Finally, the Boone County Planning Commission will make a recommendation to the City regarding the proposed zone change. At that time it comes back to the City and they do the consideration of the application for the zone change. The project is lengthy, it’s involved, and it could take up to as long as six months before the project comes back to the City for review. We’ve posted a generic timeline of the chain of events that have to occur with any zone change request on our website. I also have some copies of it here if you’d like to pick one of those up. We have representatives here from Wal-Mart and they’re going to answer some questions, talk a little bit about what the proposed project is although they may not be able to provide us with complete details. As I said this is property that’s owned by two separate property owners, the biggest parcel most of us are familiar with is the site of the old Boone-Kenton Tobacco Warehouse that burnt to the ground about four years ago. And then there’s another owner. Representing them is Mike Hargis and he’s with Paul Hemmer and he is representing the two owners of the property on their behalf with this request for annexation. So before we get to your discussion, what I’d like to do is go ahead and read the proposal for Ordinance O-7-07.”

Mayor Whalen presented the following Ordinance for first reading:

**ORDINANCE NO. O-7-07:**

AN ORDINANCE ANNEXING CERTAIN TERRITORY CONSISTING OF A PARCEL OF APPROXIMATELY 26.172 ACRES LOCATED ON THE SOUTHEAST SIDE OF U.S. ROUTE 42, THE SOUTHWEST SIDE OF WEAVER ROAD AND THE SOUTHEAST SIDE OF BILL WENTZ DRIVE, ADJACENT TO THE CITY LIMITS. (BALUYOT/B&K LEASING AND LAND COMPANY, LLC PROPERTY)

Mayor Whalen advised this was the first reading of the Ordinance, adding any annexation requires two readings. She said the second reading will not take place until everything else is completed through the Boone County Planning & Zoning Commission.

Mayor Whalen read the following summary of the Ordinance: *This Ordinance annexes and makes part of the City a tract of approximately 26.172 acres located on the southeast side of U.S. Route 42, the southwest side of Weaver Road and the southeast side of Bill Wentz, adjacent to the City limits. This Annexation is in response to a request by Dr. Sabino Baluyot & Agustina Baluyot, and B & K Leasing and Land Company, LLC, the owners, to have the property become part of the City. The annexation will be complete upon second reading and publication of this*

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*Ordinance. After annexation the 26.172 acre tract shall be zoned Commercial Two/Planned Development (C-2/PD).*

Vice Mayor Julie Metzger Aubuchon said the following:

“The current zoning of this property is Industrial, so if we left the zoning alone and did absolutely nothing...this is a piece of property that’s adjacent to our City. It’s about 100 yards from our Fire Department and as a City, we are providers of service. We provide a higher level of service in this City than any other City in this County, and in our opinion we provide a higher level of service than the County does itself. As providers of service, we have to keep in mind what our resources are. Our resources are things like our Fire Department, our Police Department, our Public Services Department. Whether this is maintained as an Industrial Zone where they could do absolutely nothing and have to go before no hearings and build a plastics plant that employs 700 workers and all those 700 workers go on a 7-3 shift...they have absolutely nothing that they have to do to come before us to do that as it is right now. So, whether we keep it as an Industrial Zone or we change it in any way or we do a development, it is in our interest as a City, as a provider of the services, that we know we will be called upon to do. It’s not a question. We are 100 yards from that development...our Fire Department. We know we will be called upon. We also know that our Police will be called upon. In order to offset that taxing of our system, we need to be able to generate revenue and in order to do that we need to annex property, so whether that stays as it’s currently zoned, Industrial, or it gets developed as something else, the City needs to annex that in my opinion. Now, that being said, I in no way will endorse this project at this point in time because it has not gone through due diligence, it is not gone through public hearing, it has not had people like yourselves that are sitting here tonight have not had the opportunity to weigh in on this project. Those are two separate issues. Annexation is separate from this development. And so I just wanted to clarify that I am not going to endorse this project in any way but I will endorse annexation.”

Councilmember Dale Stephens said the following:

“As evident by the crowd here this evening, which I’m glad to see quite frankly, this annexation procedure has generated more interest than anything in recent memory as far as annexation is required or is concerned. I will parrot what Dr. Metzger Aubuchon has said...that we can’t endorse this at this present time and I would encourage each of you and you neighbors, whoever you want to talk to or see on the street, to keep up with the developments as they develop through the Planning Commission and let your feelings and thinking be heard. That’s the important thing at this time. And Wal-Mart, from our experience with them, are good corporate citizens. They want to do what’s in the best interest of the community as a whole. And I think that you’ll find that they’ll work with us in any way possible to make this as viable and as positive a project as we could have in that particular location.”

Mayor Whalen said the following:

“As Dale said, this is the beginning of a very long process. The discussions, the headlines, the T.V. stories, might lead some people to believe that this is going to...you know...we take first reading on an annexation, tomorrow morning they’re moving dirt off that property and building, and that’s not the case. It’s not possible. They are required to go through the process, go through due diligence, show the traffic studies. Traffic is the issue that we all have with it. I drive it four times a day. Dr. Metzger drives it. Pat Wingo drives it. Rick Lunnemann...we drive that stretch of road. We know the issues with the traffic and it doesn’t make sense from our perspective any more than it makes sense from their perspective to put a store someplace that nobody can get to. If the shoppers can’t get to the store, obviously there’s no sense in them putting a store there because it sits. So, this is just our ability by annexing or taking first reading of this allows us to have input as a City in this development, how it develops, and what we require to see it through. If they don’t meet the needs or the requests or the demands of the Planning Commission, they don’t meet the needs or the requests of the City, obviously it’s not going to pass and they won’t get their zone change. But as Mr. Stephens said, the people from Wal-Mart corporate worked very well with the City of Florence on the last development from the way it was constructed on Houston Road to the redevelopment of the old Wal-Mart site. They didn’t have to do that, but they recognized how important it was to us as a City to see the old site developed. So, they have shown us good faith

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to this point with the existing store on Houston Road and once they get through this process, this project will be back here. Now, after I've let the people from Paul Hemmer talk a little bit about what they intend to do and how this moves forward, obviously if you want to express a concern or an interest you're welcome to do that, but the place to get in on record, the place to make sure your voice is heard is at the Planning Commission public hearing. Everything said there is incorporated into their minutes and becomes part of the permanent record. And it is that record that this City Council has to use in making their decision to approve or deny a zone change. So, that's the place for all of the concerns and issues that you have against or for this project...not that we're trying to skirt anything, obviously that's not the issue, but in order to make sure that what you say becomes part of the permanent record, that truly is the place that the comments need to be said."

Mike Hargis of Paul Hemmer Companies, representing the owners of the property, addressed City Council regarding the proposed annexation/project.

"Thank you Mayor and Council. Nice to be with you again. We were here last week, so you heard basically what I had to say last week as far as the history of this property and our company is concerned. We own the property where Florence Promenade is located and in the course of that development in talking with some of the City officials they encouraged us to take a look at trying to put together the larger piece of property, being the burnt-out warehouse, and the Elliot property as well as the Crouch property. Over about the past year, year and a half, we've been working on that and we've been able to get contracts on all of those pieces of properties through negotiations with the owners. We marketed that property to see what type of interest was out there from the various users that we work with and know of and in the course of that investigation it came to light that Wal-Mart was interested in another facility. So, that being kind of the background on this...we do have some guests tonight from the Wal-Mart corporation and so they would probably be happy to answer any questions."

David Gose, Wal-Mart Market Manager/Northern Kentucky Market, addressed City council regarding the proposed annexation/project.

"We appreciate the chance to come and speak with you tonight. Obviously all of you are very instrumental in helping us achieve a new store. We hope that you like that store, we we're a little bit under stored in our existing store and the good news to report is that we're doing exceptionally well on Houston, farther than what we anticipated in sales and quite honestly we're a little too busy than what's for comfort so we found a site that we believe can take care of a little bit of that extra traffic that's being generated to the Houston Road store. We also believe, obviously being a business, that there's some consumers out there that would benefit from us being a little bit closer to Florence and also the Union area as well. So, it's a good business decision for us, we've worked well in the past with Florence and we think that this site could be a benefit for both Wal-Mart and the City of Florence as well...As in Northern Kentucky most of us live here, the traffic is difficult wherever you live. I live in Hebron. Obviously we're battling our own issues on 237, whether you live in Burlington and travel 18 and also those folks that live in the farthest part of Florence and also Union battle the interstate and also Route 42 as well, so we believe that with the studies that we make, we want to help the traffic on 42 and our access to the site. Obviously it would not make any sense for us to build a building, to spend the millions of dollars that we're going to spend, to put a store that's not going to be accessible by our customers. We also are going to go on record by saying that if we can't improve the traffic flow on 42, then we're going to walk away from this site. We do not want to impede, I guess the backlog of traffic that's there existing, we're not wanting to make that even worse than what it is currently so with the traffic study that we perform, the information that we find out, and in the plan that we put together, if we can't improve the traffic then we'll seek another avenue."

Mayor Whalen said the following:

"So, you all will have a traffic study done, obviously you have engineers that do that. Your traffic study information is presented to the Planning Commission as part of the overall project. We as a City have determined that we will take that raw data that is gathered as well and have an independent study done of that traffic study...take all that information, have it looked at from our perspective and from this community's perspective and see how our results stack up with the results that you present."

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Mr. Gose said the following:

“Absolutely, so we’ll gather information, we’ll put together our study, our points of view, our concerns...we’ll also have what our recommendations are, also the City as you said, we’ll look at that...the City will look at it as well, so there will be numerous sets of eyes on it to diagnose the issues and problems and hopefully come with a good resolution.”

Mayor Whalen said the following:

“The State of Kentucky is also involved because you are dealing with three separate state highways.”

Mr. Gose said the following:

“Right, so K-DOT and also Frankfort, Kentucky will be involved in looking at that information as well...This is basically just helping us get the property annexed the right way and our work is up to us to ensure that we present a good business model for the City of Florence and also put a good product out there for the customers as well.”

Mayor Whalen said the following:

“As I said, I am more than happy to entertain comments from the audience. I don’t have an issue with that at all. Understand that we will obviously have minutes of this meeting, but the place where it makes the difference, the place where it becomes part of the record and is considered, not only by the Planning Commission, but by this body...and this is state law that governs how zoning is done, not us saying it has to be this way...that is at the public hearing. They are required to post signs on the property, giving notice of the date of the public hearing. They are required to run ads and they would be in the Boone County Recorder because that is the official legal paper for Boone County. Obviously we’ll try and keep as much information up-to-date on our website, giving you that information as we get it, so that you know when these hearings are...they’re held at the Boone County Courthouse when the Planning Commission meets and that’s truly the best place to make sure your voices are heard, but as I said if there’s anybody in the audience that specifically wants to talk about this, I’m more than happy to let you do that.”

Mayor Whalen asked if anyone in the audience desired recognition; The following ten (10) people addressed City Council:

Susie Stough of 761 Mary Lou Drive said the following:

“I’ve lived in Florence for 12 years. My house that I live in belonged to my mother-in-law and she would have been there for 30 years. As far as I’m concerned, I live off of Weaver, I really don’t think we need another Wal-Mart, one is sufficient because it’s big enough. Traffic is atrocious on Weaver Road. I’ve been sitting at Evergreen anywhere from 15-20 minutes at a time because of the Kellogg Company down the road, so I really don’t think we need another Wal-Mart.”

Bev Reno of 9108 Timberbrook Lane said the following:

“I’d like to express my objection to Wal-Mart coming just because of the traffic here. One thing I wanted to ask and that is you said that they’ve been a real good neighbor to Florence and everything and that they...before they built their new building they went ahead and...then there’s a Toys R Us...but my question would be would the City have approved it if they wouldn’t have gone into some kind of a negotiation to make sure that the place that they left wasn’t just empty? Would the City still have approved it if they wouldn’t have...do you know what I’m asking? Was there not some kind of a negotiation when Wal-Mart decided to build the super store, they already had the store next to Sam’s, so was there some type of a negotiation with the City that they were allowed to go do this super store that they would make right the area that they were leaving so it wouldn’t stay empty?”

Mayor Whalen said the following:

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“They did agree to that, yes ma’am.”

Ms. Reno said the following:

“Okay, so in other words, what I’m asking is if they wouldn’t have agreed to that, if they wouldn’t have said they would do that would the City still have approved the new super store?”

Mayor Whalen said the following:

“I can’t tell you for sure, I would believe probably not. We were very concerned that it would be left vacant.”

Ms. Reno said the following:

“Okay, absolutely, Diane. And that’s what I’m concerned about. I know we say that Wal-Mart is, you know, a real good corporation for the people, but I personally do not believe that. And so therefore I think that there had to be something with the City and Wal-Mart before they could move, so it was they had to do something in order to be able to build a super store.”

Mayor Whalen said the following:

“They did agree that they would not leave the building vacant, yes ma’am.”

Brian Carroll of 8312 Tamarack Drive said the following:

“My concern is we live there, we’re 50 yards from the firehouse which would put us 150 yards from Wal-Mart. Who wants to live next to Wal-Mart? There’s plenty of other commercial sites that can host this place, I mean, with more accessibility. The site on Mall Road that’s been sitting empty that’s been for sale that they’ve tried to get major stores into right there, the farmland. What’s wrong with that site? There’s more than enough sites around the City that are more accessible to the highway and everything else than to have to increase traffic on 42. On top of that, I mean, property values. I guarantee my property value will plummet if they move, and who wants to live next to Wal-Mart? It’s fun to go shopping there, but who wants to live next to Wal-Mart? I guess you guys don’t really think about that, you don’t have to live next to Wal-Mart because, if you guys want to buy my house I’ll sell it to you, but I don’t want to live next to you.”

Richard Marsan of 9043 Crimson Oak Drive said the following:

“Everyone here is trying to do their job. They have their jobs to do in terms of generating revenue, to provide services, you heard that very clear. They have their job. Their job is to make money. It’s our turn to do our job. If Wal-Mart can definitively answer the question of providing for the greater good of the community then Wal-Mart should have their way. But how many choices do you need as consumers? I’m talking about commercial choices. How many things do you need in this area? Do we have enough choices? I would say yes. And I would urge Council to step away from the issue of it always surrounding money. You know, the issue of money being the key driver. It’s not always about money. To Wal-Mart it’s always about money. And if any of them can look me in the eye and tell me otherwise, I’d say you’re a liar. Let’s consider the greater good in all of this and let that be the driver. People, show up at the Planning Commission meeting, let your voices be heard, let it become part of the record, and you can stop them. That’s the only way.”

Steve Dallas of 72 Achates Drive said the following:

“Will the City have an economic impact study done on the impact of a second Wal-Mart...the impact on existing businesses?”

Mayor Whalen said the following:

“No, sir...no, sir.”

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Yvonne Joy of 345 Saddlebrook Lane said the following:

“When I lived in New York we had a Super Wal-Mart come in and it drove out other businesses. We lost a Super K-mart. We lost a Grand Union. We lost another grocery store. When I left that place because there was nothing left, we had two grocery stores, either Super Wal-Mart or Hannaford and I would not shop Wal-Mart because I wanted more choices at where I lived. I shopped where I worked, at a grocery store. I was there for 12 years. They were wonderful people. They asked me when I moved to Kentucky, ‘who’s going to be there?’ I said Meijer, Biggs, Kroger. They told me, go apply at Kroger first, you got 12 years, they’ll hire you. I walked in there and I got hired. They wanted me to start right away. I said give me one more week and I will come back to work for you. I’ve had nothing but good luck at Kroger and it’s not to push Kroger, but I have seen what Wal-Mart can do to other communities. And I’ve lived in New York in an area that was 45 minutes from the state capitol, two and a half hours from New York City. The next nearest Wal-Mart was 45 minutes away and it still drove out business. My quality of life is important in this town. I did not move to a rural setting to wind up in New York City again. It’s not going to happen. I will be at every meeting to vote this thing down and you owe it to us as residents of Florence, you have to help us with our quality of life because we elected you. We want you to do your part so we can do our part. Support our City as much as you do, but you have to do your job. We understand that we need revenue because that’s what happened where I lived. There was not enough industry to support it. Our county was...bluntly, we had a lousy county. Five years later it’s finally starting to pick up but it took them five years. We lost IBM, we lost all kinds of stores because once IBM pulled out nobody had any money, nobody. And if you think that this is going to be a good choice, please think again because you can see what’s here tonight, and we’re not happy with it here. Don’t think that the people in Union are happy with it because they’re not. I know people in Union. They will come here and they will tell you ‘sorry, we don’t need it. Go to Hebron, go to Walton. Find another store.’ And it’s like the gentleman said what about that piece of property out by Old Time Pottery, perfect place. Go see if you can put it there. We’ll shop it there, just not in my backyard.”

Tammy Lipscomb of 8954 Winthrop Circle said the following:

“It’s not about the traffic for us, guys, we have a school, we have two schools. Every morning I go to work I watch children cross major roads and traffic ‘s already bad there, can you imagine what it’s going to be like with a Wal-Mart with three times the traffic and children trying to cross the road? You know how many times I’ve almost seen children get hit on this road with the little bit of traffic we have now? Are we going to supply crossing guards and safety guards to get our children across these roads once Wal-Mart goes in? That’s my concern is our children, not us, not traffic, not the inconvenience to us, but our kids. We have them to think about.”

Keerthi Kanubaddi of 9172 Belvedere Court said the following:

“I feel bad for you guys, I really do because I don’t know how many of these meetings you come to but if you get a brow beating like this every time I know it can’t be easy, so let me just apologize on behalf of, I don’t know, I guess, everyone, but I know you all are here for a job, but I will say that the houses beyond this proposed lot really do stand to lose some property value and I think that’s something that needs to be considered. I ask that, you know, if you really do conduct studies, and I know Wal-Mart really conducts studies on where their customers come from, you know you have to really ask where these people are coming from. If they’re coming anywhere south of this area you have to consider other sites. This might be the cheapest site or there must be something lucrative about this site that’s asking you to come here because it’s not the most accessible to the highway. You have to consider something else, maybe the Richwood site, but it certainly doesn’t seem to make sense and that road is just horrendous. I think all of you know this and it just doesn’t stand to make sense. I don’t think anybody in this room can argue that and I don’t think any of you can either so, you know, if anybody just utilizes their common sense there’s really no argument.”

Michael Crowe of 13 East Cobblestone Court said the following:

“I want to thank the Mayor for responding to my e-mail earlier today and helping to clarify some of these issues. Initially this had been proposed simply as tonight as a first reading,

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might be a final step toward the final prospect of Wal-Mart and she clarified that this in fact a means by which the City can retain control and I think that's fantastic. They want to have such an ability to oversight and we do have to actually determine whether or not Wal-Mart, you know, they have been a good citizen as far as the Houston Road development. That's been fantastic, however, I know that we don't have a crystal ball. There's no way to know what the impact will be, I mean I'm not a strict environmentalist, but I do know that environmental impact studies are important to a lot of regulatory bodies. We have to consider that the proposed site development is directly uphill from the Gunpowder water shed. Once it's developed it can't be undeveloped. There's that, but the other thing that concerns me are the traffic impact studies. Yes, we see that U.S. 42 is incredibly busy right now, we know that Houston Road is incredibly busy. It's hard to know how U.S. 42 will be impacted by current development that's slated to take place over the next couple of years. We don't have a crystal ball, but we also don't know that some of the congestion from Houston Road will not be alleviated by the current Turfway Road improvements. I would strongly suggest that the Council consider all current infrastructure improvements that are on the books and consider that along with the traffic impact studies that are to be conducted and I will be bringing those points to the Boone County Planning & Zoning Commission."

Sandy Schroeder of 24 Kelly Drive said the following:

"I'd just like to remind everyone, for those of you who don't know, and Council, we have had a zoning change and approval of a development, a high density development right there on Hopeful Church Road, which is going to be, what was it...334 units I believe? Yeah, 334 units, high density, right there on the farm...so that's 334 more housing units that's going to be right there on Hopeful Church Road. It's already been approved, from what I understand it's on hold right now because of the housing slow down and stuff like that, but it's been approved so it could take off at anytime. And I've been through a little bit of this before with that development, which is right in my backyard...I'd like to urge everyone out here tonight, if you're sincerely interested in this and want to voice your opinion, come prepared to the first zoning committee meeting, be prepared and everything that you have to say will be on record as Diane had said. That's your place to voice your opinions, to make a change, to make a difference."

Mayor Whalen said the following:

"As I said earlier tonight what we're doing is taking first reading on an annexation. If you look at the map, and I don't know how easy it is to tell, the large box surrounded by white is where the old tobacco warehouse used to sit. The box behind that and the word behind that says Baluyot, which is one of the owners, and the other box that has a name in it is Baluyot...those are the parcels they're proposing to annex. Right now they currently sit in unincorporated Boone County. There is no requirement for this property to be annexed into the City of Florence. It can still move forward without any input whatsoever from us. And so our intent, as we said earlier, is because we've worked with Hemmer and we've talked about bringing this into the City...we're surrounded by it...it's in our best interest and your best interest if this property is annexed so that we do have some input and oversight over what happens there. If we choose not to annex this property, we have no input as a governmental body at all. It will go through the Fiscal Court and whatever is deemed out there is what we get. We get the traffic, yes we get the revenue, but we get the traffic, we get the police calls, we get the fire calls, and we don't have any say-so. So it's important to us that as we work with the developer, as they go through this process, that were able to be actively involved in that, and by approving this first reading of annexation, that is how we can do that."

Councilmember Carroll moved, with second from Councilmember Conrad, that Ordinance No. O-7-07 be approved on first reading and be held for second and final reading at the next meeting of Council. Roll Call Vote: Councilmembers Carroll, Stephens, Osborne, Metzger Aubuchon, Conrad, and Bushelman voted yes. **Council approved by unanimous vote.**

Mayor Whalen said the following:

"The second reading of this ordinance will not take place until after it's been through the Planning Commission...it comes back to the City for final approval or disapproval. And I encourage each and every one of you to continue to stay involved and listen to the developments



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and see how Wal-Mart steps up, or doesn't step up in some of your minds, to this project. We are not interested in hampering your travel up and down U.S. 42, or Weaver Road, or Hopeful Church Road. It doesn't need to be any worse. I can speak to that. There are days when it takes me longer to get from this building to my house off of Pleasant Valley than it takes me to get from Smith-Edward Road on I-71 to U.S. 42 exit. So, I know how busy it is and I know how congested it is. Everybody wants to live out. Everybody's going home to Union and everybody's on the road at the same time, so these are commuters that we're dealing with, these are not people who are out shopping, these are people who want to go home, want to go to school, want to go to soccer games, and those are the people that we've told them that they're impacting. It's a different scenario than Houston Road, so they're going to do their due diligence and they're going to present their project...he's told you, if it doesn't make sense to them from a financial standpoint, if they can't get people to their store, they'll walk away from this site. And it's an expensive site to develop. If you've seen it you see that it's covered with all the dump...I mean it's just mountains, mountains of rock and dirt. It's a mess. Something's going to happen there. I mean eventually...there's 35 acres, 25 acres of land there...something's going to happen. We'd be foolish to think nothing will ever be rebuilt on that land."

Vice Mayor Metzger Aubuchon said the following:

"The problem is if it's zoned Industrial and it's not in the City limits they can put any kind of industrial plant there without any of our input."

Mayor Whalen said the following:

"We want to be a part of the process as well and we look forward to it because they have been good corporate citizens, they've been good to work with, they've responded to our concerns. At the same time, aside from the tax revenue that they generate on Houston Road for real estate and payroll, they are a charitable, giving organization. They've given over a half million dollars to this community just for charitable causes and for schools and for the Relay For Life for the American Cancer Society. So they're not just in here to take, they are giving something back. You may not agree with that, you may shake your head at me, but the issue is they don't have to do that, they could send all their process down to Arkansas and we'd never see a nickel of it. So, from that perspective they have been a good community group....and John Turner himself is charring the American Cancer Society Relay For Life for Boone County. He doesn't need to do that. He's a busy man and he keeps busy at the store, but he is giving his own time to do that, so we appreciate what they do for us, but we also understand that just because they've done for us in the past doesn't mean they're committed to doing for us in the future and we want to be able to be part of that, so I appreciate you taking the time to come out tonight. I encourage you to continue to stay involved and to listen to the developments as they occur."

Councilmember David A. Osborne said the following:

"Just so you all understand and we really do appreciate your input tonight. We appreciate you taking the time out of your schedule to come up here and express your opinion. And the gentleman in the front row and the gentleman in the back, I couldn't agree with you two more, to encourage the citizens to go to the public hearing and express their opinion and concerns in regards to this project. But there's one thing I would like to make very clear to everybody here. I received a phone call over the weekend and the individual stated that this was a done deal between Wal-Mart and the City of Florence. This project came to the City of Florence last Tuesday night with Mr. Carroll and myself and the Planning & Zoning Committee, they came before the caucus meeting to express their project. Under no fashion, form, anything you want to label it, is it a done deal. The Mayor outlined the steps that they have to follow, like eleven or twelve steps, and we're going to follow those steps and we do encourage it, but it is not a done deal."

Vice Mayor Metzger Aubuchon said the following:

"We've had a situation before with other zone changes and people have contacted us individually and that's...we welcome that as a Council, we're very opened to citizen comments, the only thing we cannot do is we cannot say whether we're going to vote for or against this

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project because it hasn't gone before the public hearing process and until we get the minutes to read, we're not suppose to assimilate any kind of opinion on it, so please don't ask us, you know, how we're going to vote because we don't...we're not allowed to do that...we're not legally allowed to do that and if we came out...even if we agreed with everything you said and said we don't want Wal-Mart...if we said that to you then we could be, actually our vote could be disqualified because we said how we we're going to vote before we received the project, so, you know, please don't ask us how we're going to vote. We welcome your comments though, we really welcome your comments, would love to hear what you have to say...just want to say you know, if you got a vote on your side you maybe don't want to press them because then if it's disqualified that's one vote against what your thought process so, just really encourage everybody to get involved and go to the public hearing. We're just tickled to have people here at our meetings. We don't usually have that many people here at our meetings so thank you all for coming out."

Mayor Whalen said the following:

"It is a legal process. It's outlined in the Kentucky Revised Statute, and it's very detailed and very precise and we are mandated by law to follow that statute, so if you need more information on that we'll be more than happy to make those numbers available to you so you can read them, but the Planning Commission is the next step and we encourage you to be there. I don't know that it's been set yet. They haven't submitted the project. This is the first step as I said. The next step is submitting the project to the Planning Commission and looking at the Planning Commission's schedule to determine when it is assigned to committee and when it is set for public hearing, so all of that should be available as well on the Boone County website because they have a link to the Planning Commission and their meeting schedules."

City Coordinator Wingo said the following:

"We will make sure that we keep updating our information on our website so you can check there as well."

Mayor Whalen presented the following Ordinance for first reading:

**ORDINANCE NO. O-8-07:**

**AN ORDINANCE AMENDING ORDINANCE NO. O-28-96 RELATING TO FLOOD DAMAGE PREVENTION.**

Mayor Whalen read the following summary of the Ordinance: *This Ordinance amends Ordinance No. O-28-96 in order to identify and regulate development of special flood hazard areas; establish reasonable and uniform regulations to protect against flood damage within these special flood hazard areas; establish an Appeal Board to hear and decide variance requests with regard to new development; and amend the penalties for violation of this Ordinance.*

*Pursuant to KRS 83A.060(9)(c) the full text of each section of the Ordinance which imposes fines, penalties, forfeitures, taxes or fees is as follows:*

***SECTION H. ENFORCEMENT, VIOLATION, NOTICE AND PENALTIES***

***(4) Penalties:*** Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor civil offense. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined no less than \$100.00 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the taking of such other lawful actions as is necessary to prevent or remedy any violation.

Vice Mayor Metzger Aubuchon moved, with second from Councilmember Osborne, that Ordinance No. O-8-07 be approved on first reading and be held for second and final reading at the next meeting of Council. **Council approved by unanimous vote.**

**MAYOR'S REPORT:**

Mayor Whalen advised of the Public Services Night Out scheduled for Tuesday, May 22 from 4-7 p.m. at the Home Depot on Spiral Boulevard.

Mayor Whalen advised of the Northern Kentucky Association of Realtors groundbreaking ceremony scheduled for Thursday, May 10 at 3 p.m. near Turfway Park.

Mayor Whalen advised of the annual American Cancer Society's Relay For Life event scheduled for Friday, June 15 from 7 p.m. until 7 a.m. at Ryle High School.

Mayor Whalen advised of a wreck on Pleasant Valley Road earlier this afternoon.

**CITY COORDINATOR'S REPORT:**

City Coordinator Pat Wingo advised Council and staff were provided with a list regarding the upcoming Neighborhood Night Out locations, including the first one scheduled for Tuesday, June 19 at 5 p.m. at the Orleans South Clubhouse parking lot.

City Coordinator Wingo advised the City had signed several bands regarding the upcoming Florence Y'all Festival. She also said 600 sponsorship letters would be mailed out on Wednesday, May 9.

**OTHER:**

Mayor Whalen asked if any Councilmember desired recognition; no one responded.

Mayor Whalen asked if any department head desired recognition; Police Chief Tom Szurlinski advised of the recent arrest of two people regarding the December Florence Mall robbery.

Mayor Whalen asked if anyone in the audience desired recognition; Linda Holbrook of 44 Kathryn Avenue addressed City Council regarding the recently held Great American Cleanup. Additional discussion followed.

**EXECUTIVE SESSION:**

Mayor Whalen called for a motion to go into **Executive Session** pursuant to K.R.S. 61.810 (1)(c) Litigation-Proposed or pending against or on behalf of the City. Councilmember Carroll so moved, with second from Councilmember Conrad and **unanimous approval of Council**, the time being 8:05 p.m.

Mayor Whalen called for a motion to come back into session after the **Executive Session** pursuant to K.R.S. 61.810 (1)(c) Litigation-Proposed or pending against or on behalf of the City. Councilmember Bushelman so moved, with second from Councilmember Osborne and **unanimous approval of Council**, the time being 8:26 p.m.

**ADJOURNMENT:**

There being no further business to come before the Council, Mayor Whalen called for a motion to adjourn. Councilmember Stephens so moved, with second from Councilmember Bushelman, and **unanimous approval of Council**, the time being 8:27 p.m.

APPROVED:

\_\_\_\_\_  
Diane E. Whalen, Mayor

ATTEST:

\_\_\_\_\_  
Joseph A. Christofield, City Clerk

